

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION) MDL 2804
THIS DOCUMENT RELATES TO:) Case No. 1:17-md-2804
Applies to All Cases) Judge Dan Aaron Polster
) ORDER
)

This MDL began in December of 2017. Since that time, the major Manufacturer Defendants (*i.e.* J&J, Purdue, Mallinckrodt, Teva, Allergan, and Endo) have all either reached a global settlement, declared bankruptcy, engaged in litigation, or settled numerous individual cases. The major Distributor Defendants (*i.e.* the “Big 3”) have reached a global settlement. The Court’s first bellwether, Track One, settled on the eve of trial in October of 2019. The Court has also remanded MDL cases to Illinois, Oklahoma, California, and West Virginia to test state and federal claims in those venues against a variety of defendants. Recently, the Court concluded the liability phase of the Track Three bellwether trial, testing dispensing-related claims against the major Pharmacy Defendants. That case will continue to the abatement phase of trial next month. The Court has also identified five additional bellwether trials against the major Pharmacy Defendants in various states to test the viability of public nuisance claims against pharmacies more broadly.

In light of these developments related to the major Manufacturer and Distributor Defendants, the Court now turns its attention to some of the remaining Manufacturers and Distributors named in MDL cases.

The Court will hold a Zoom status conference on June 22, 2022 at noon with the PEC and defense counsel from the ten Distributor and Manufacturer Defendant Families¹ most frequently named in MDL cases (other than the ones named above) to determine how to best proceed with those cases. These Distributor Defendant Families are: (1) H. D. Smith, LLC; (2) Miami Luken, Inc.; (3) J.M. Smith Corporation; (4) Omnicare Distribution Center; (4) Morris & Dickson Co.; (6) Henry Schein, Inc.; (7) Harco, Inc.; (8) Masters Pharmaceutical; (9) Keysource Medical, Inc.; and (10) Quest Pharmaceuticals, Inc. These Manufacturer Defendant Families are: (1) Mylan Inc.; (2) Amneal Pharmaceuticals; (3) Sandoz Inc.; (4) KVK-Tech, Inc.; (5) Indivior Inc.; (6) Hikma Pharmaceuticals PLC; (7) The P.F. Laboratories, Inc.; (8) Abbott Laboratories; (9) Depomed, Inc.; and (10) Novartis.

¹ By “Defendant Families,” the Court means all entities that are related. For example, “H.D. Smith, LLC” includes “family member” defendants H. D. Smith, LLC; H. D. Smith Holding Company; H. D. Smith Holdings, LLC; and H.D. Smith Wholesale Drug Co.

Counsel shall submit status reports by noon on Monday, June 20, 2022. Specifically, the PEC shall submit one joint status report, and each Defendant Family listed above shall submit a status report. Counsel will serve these status reports on all parties and also email them directly to the Court and to Special Master Cohen. The parties may also submit to the Court an *ex parte* addendum regarding settlement status if they so choose. The status reports shall include notice of how and whether Plaintiffs intend to proceed against each of the above-listed Defendants. The report shall also include an update from each Defendant regarding whether they are interested or currently engaged in active settlement negotiations; and if interested, whether they prefer to retain an outside mediator or have the Court assist in those negotiations. Finally, the Status Report shall indicate each party's position on whether and how the Court should conduct additional bellwether trials, including proposals for potential cases to be named as new bellwether tracks, if any.

IT IS SO ORDERED.

/s/ Dan Aaron Polster April 21, 2022
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE